

Substitute Bill No. 390

February Session, 2014



AN ACT CONCERNING CHANGES TO CIGARETTE REGULATION TO IMPLEMENT THE NONPARTICIPATING MANUFACTURER ADJUSTMENT SETTLEMENT AGREEMENT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. Section 4-28h of the general statutes is repealed and the
- 2 following is substituted in lieu thereof (*Effective January 1, 2015*):
- As used in sections 4-28h to 4-28j, inclusive, as amended by this act:
- 4 (1) "Adjusted for inflation" means increased in accordance with the
- 5 formula for inflation adjustment set forth in Exhibit C to the Master
- 6 Settlement Agreement;
- 7 (2) "Affiliate" means a person who directly or indirectly owns or
- 8 controls, is owned or controlled by, or is under common ownership or
- 9 control with, another person. The terms "owns", "is owned" and
- 10 "ownership" mean ownership of an equity interest, or the equivalent
- 11 thereof, of ten per cent or more. The term "person" means an
- 12 individual, partnership, committee, association, corporation or any
- 13 other organization or group of persons;
- 14 (3) "Allocable share" means allocable share as that term is defined in
- 15 the Master Settlement Agreement;
- 16 (4) "Cigarette" means any product that contains nicotine, is intended

- 17 to be burned or heated under ordinary conditions of use, and consists 18 of or contains (A) any roll of tobacco wrapped in paper or in any 19 substance not containing tobacco; or (B) tobacco, in any form, that is 20 functional in the product, which, because of its appearance, the type of 21 tobacco used in the filler, or its packaging and labeling, is likely to be 22 offered to, or purchased by, consumers as a cigarette; and (C) any roll 23 of tobacco wrapped in any substance containing tobacco which, 24 because of its appearance, the type of tobacco used in the filler, or its 25 packaging and labeling, is likely to be offered to, or purchased by, 26 consumers as a cigarette described in subparagraph (A) of this 27 subdivision. The term "cigarette" includes roll-your-own tobacco, 28 meaning any tobacco which, because of its appearance, type, 29 packaging or labeling is suitable for use and likely to be offered to, or 30 purchased by, consumers as tobacco for making cigarettes. For 31 purposes of this definition of "cigarette", 0.09 ounces of roll-your-own 32 tobacco shall constitute one individual "cigarette";
- (5) "Importer" means any person in the United States to whom
 cigarettes manufactured in a foreign country are shipped or consigned,
 any person who removes cigarettes for sale or consumption in the
 United States from a customs bonded manufacturing warehouse, or
 any person who unlawfully brings cigarettes into the United States;
- [(5)] (6) "Master Settlement Agreement" means the settlement agreement executed November 23, 1998, by the state of Connecticut and leading tobacco product manufacturers, entitled "State of Connecticut v. Philip Morris, et al.";
- 42 (7) "Nonparticipating Manufacturer Adjustment Settlement
 43 Agreement" means the settlement agreement between the state of
 44 Connecticut and the participating manufacturers, as preliminarily set
 45 forth in the term sheet executed by the state of Connecticut and the
 46 participating manufacturers on May 24, 2013;
- [(6)] (8) "Qualified escrow fund" means an escrow arrangement with a federally or state-chartered financial institution having no affiliation

with any tobacco product manufacturer and having assets of at least one billion dollars where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing or directing the use of the funds' principal except as consistent with the provisions of subsection (b) of section 4-28i;

- [(7)] (9) "Released claims" means released claims as that term is defined in the Master Settlement Agreement;
- [(8)] (10) "Releasing parties" means releasing parties as that term is defined in the Master Settlement Agreement;
 - [(9)] (11) "Tobacco product manufacturer" means an entity, or its successor, that, after July 1, 2000, directly and not exclusively through an affiliate (A) manufactures cigarettes anywhere which the manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer, provided that an entity that manufactures cigarettes that it intends to be sold in the United States shall not be considered to be a tobacco product manufacturer under this subparagraph (A) if (i) such cigarettes are sold in the United States exclusively through an importer that is an original participating manufacturer, as that term is defined in the Master Settlement Agreement, that will be responsible for payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the Master Settlement Agreement and that pays the taxes specified in subsection II(z) of the Master Settlement Agreement, and (ii) the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States; or (B) is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States. A tobacco product manufacturer shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself meets the criteria specified in subparagraph (A) or (B) of this subdivision;

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[(10)] (12) "Units sold" means the number of individual cigarettes sold in this state by the applicable tobacco product manufacturer, whether directly or through a distributor, dealer or similar intermediary or intermediaries during the year in question, [as measured by excise taxes collected by this state on packs, or on "rollyour-own" tobacco containers, bearing the excise tax stamp of the state in packs required to bear a stamp pursuant to chapter 214 or, in the case of roll-your-own tobacco, on which a tax is due pursuant to chapter 214a. "Units sold" shall not include cigarettes sold on federal military installations, sold by a Native American tribe to a member of such tribe on such tribe's land, or that are otherwise exempt from state excise tax pursuant to federal law. The Department of Revenue Services shall adopt such regulations, in accordance with the provisions of chapter 54, as are necessary to ascertain the amount of state excise tax paid or required to be paid on the cigarettes of such tobacco product manufacturer for each year.

- 98 Sec. 2. Subsection (a) of section 4-28i of the general statutes is 99 repealed and the following is substituted in lieu thereof (*Effective* 100 *January* 1, 2015):
- 101 (a) (1) Any tobacco product manufacturer selling cigarettes to 102 consumers within this state, whether directly or through a distributor, 103 dealer or similar intermediary or intermediaries, after July 1, 2000, 104 shall [(1)] (A) become a participating manufacturer, as the term is 105 defined in section II(jj) of the Master Settlement Agreement, and 106 generally perform its financial obligations under the Master Settlement 107 Agreement; or [(2)] (B) place into a qualified escrow fund not later than 108 April fifteenth of the year following the year in question the following 109 amounts, as adjusted for inflation: For calendar year 2000, \$.0104712 110 per unit sold after July 1, 2000; for each of calendar years 2001 and 111 2002, \$.0136125 per unit sold; for each of calendar years 2003 through 112 2006, \$.0167539 per unit sold; for calendar year 2007 and for each 113 calendar year thereafter, \$.0188482 per unit sold.
- 114 (2) For calendar years ending on or before December 31, 2014, a

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- 115 <u>tobacco product manufacturer electing to place funds into escrow shall</u>
- 116 place the amount required pursuant to subparagraph (B) of
- subdivision (1) of this subsection into a qualified escrow fund on an
- annual basis not later than April fifteenth of the year following the
- 119 year in which the sales covered by such deposit are made.
- 120 (3) For calendar years commencing on and after January 1, 2015, a
- tobacco product manufacturer electing to place funds into escrow shall
- 122 place an amount equal to \$.0188482 per unit sold, as adjusted for
- inflation, into a qualified escrow fund on a quarterly basis not later
- than thirty days after the end of the quarter in which the sales covered
- by such deposit are made.
- Sec. 3. Section 4-28j of the general statutes is repealed and the
- following is substituted in lieu thereof (*Effective January 1, 2015*):
- 128 (a) Each tobacco product manufacturer that elects to place funds
- into escrow pursuant to section 4-28i, as amended by this act, shall
- 130 [annually] certify to the Attorney General that it is in compliance with
- 131 said section 4-28i. Such certification shall be made annually for
- calendar years prior to calendar year 2014, and quarterly for calendar
- 133 years commencing on and after January 1, 2015.
- 134 (b) The Attorney General may bring a civil action on behalf of the
- state against any tobacco product manufacturer that fails to place into
- escrow the funds required under section 4-28i, as amended by this act.
- 137 Any tobacco product manufacturer that fails [in any year] to place into
- escrow the funds required under section 4-28i, as amended by this act,
- shall (1) be required within fifteen days to place such funds into
- escrow as shall bring it into compliance with section 4-28i, as amended
- 141 by this act. The court, upon a finding of a violation of this subsection,
- may impose a civil penalty in an amount not to exceed five per cent of
- the amount improperly withheld from escrow per day of the violation
- and in a total amount not to exceed one hundred per cent of the
- original amount improperly withheld from escrow; (2) in the case of a
- 146 knowing violation, be required within fifteen days to place such funds

- into escrow as shall bring it into compliance with section 4-28i, as 147 148 amended by this act. The court, upon a finding of a knowing violation 149 of this subsection, may impose a civil penalty in an amount not to 150 exceed fifteen per cent of the amount improperly withheld from 151 escrow per day of the violation and in a total amount not to exceed 152 three hundred per cent of the original amount improperly withheld 153 from escrow; and (3) in the case of a second knowing violation, be 154 prohibited from selling cigarettes to consumers within the state, 155 whether directly or through a distributor, dealer or similar 156 intermediary, for a period not to exceed two years. All costs, fees and 157 expenses in connection with such action shall be assessed as damages 158 against the tobacco product manufacturer together with reasonable 159 attorney's fees.
- 160 (c) Each failure to make [an annual] <u>a</u> deposit required under 161 section 4-28i, <u>as amended by this act</u>, shall constitute a separate 162 violation.
- 163 (d) For any tobacco product manufacturer that elects to place funds into escrow pursuant to section 4-28i, as amended by this act, and that 164 is located outside the United States, each importer of such 165 166 nonparticipating manufacturer's cigarettes shall have joint and several liability with such manufacturer for the deposit of all escrow amounts 167 168 due under section 4-28i, as amended by this act, and the payment of all 169 penalties imposed under subsection (b) of this section for the units sold 170 in this state.
- 171 Sec. 4. Section 4-28k of the general statutes is repealed and the 172 following is substituted in lieu thereof (*Effective January 1, 2015*):
- 173 As used in sections 4-28k to 4-28r, inclusive:
- 174 (1) "Brand family" means all styles of cigarettes sold under the same 175 trade mark and differentiated from one another by means of additional 176 modifiers or descriptors, including, but not limited to, menthol, lights, 177 kings and 100's, and includes any use of a brand name, alone or in

- 178 conjunction with any other word, trademark, logo, symbol, motto,
- selling message, recognizable pattern of colors, or any other indicia of
- 180 product identification identical or similar to, or identifiable with, a
- 181 previously known brand of cigarettes;
- 182 (2) "Cigarette" has the same meaning as provided in section 4-28h,
- as amended by this act;
- 184 (3) "Commissioner" means the Commissioner of Revenue Services;
- 185 (4) "Importer" has the same meaning as provided in section 4-28h, as
- amended by this act;
- 187 (5) "Master Settlement Agreement" has the same meaning as
- 188 provided in section 4-28h, as amended by this act;
- [(4)] (6) "Nonparticipating manufacturer" means any tobacco
- 190 product manufacturer that is not a participating manufacturer;
- 191 (7) "Nonparticipating Manufacturer Adjustment Settlement
- 192 Agreement" has the same meaning as provided in section 4-28h, as
- 193 amended by this act;
- [(5)] (8) "Participating manufacturer" has the meaning as provided
- 195 in section II(jj) of the Master Settlement Agreement [, as defined in
- section 4-28h,] and all amendments thereto;
- [(6)] (9) "Qualified escrow fund" has the same meaning as provided
- in section 4-28h, as amended by this act;
- [(7)] (10) "Stamper" means, in the case of cigarettes other than roll-
- 200 your-own tobacco, a person that under chapter 214 may lawfully
- 201 purchase unstamped packages of cigarettes and affix Connecticut
- 202 cigarette tax stamps to such packages, and, in the case of roll-your-own
- 203 tobacco, a person licensed as a distributor under chapter 214a and
- required to pay the tax due on such tobacco under said chapter 214a;
- 205 [(8)] (11) "Tobacco product manufacturer" has the same meaning as

- 206 provided in section 4-28h, as amended by this act; and
- [(9)] (12) "Units sold" has the same meaning as provided in section 4-28h, as amended by this act.
- Sec. 5. Section 4-28*l* of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2015*):
- 211 (a) Any tobacco product manufacturer whose cigarettes are sold in 212 this state, whether directly or through a distributor, retailer or similar 213 intermediary or intermediaries, shall execute a certification annually 214 on a form prescribed by the commissioner, certifying under penalty of 215 law for false statement that, as of the date of such certification, such 216 tobacco product manufacturer is either a participating manufacturer in 217 full compliance with subdivision (1) of subsection (a) of section 4-28i, 218 as amended by this act, or is a nonparticipating manufacturer in full 219 compliance with the provisions of sections 4-28h to 4-28j, inclusive, as 220 amended by this act. Such tobacco product manufacturer shall deliver 221 such certificate to the commissioner and Attorney General no later 222 than April thirtieth of each year. Each tobacco product manufacturer 223 shall maintain all invoices and documentation of sales and other such 224 information relied upon for such certification for a period of five years 225 unless otherwise required by law to maintain them for a longer period 226 of time.
 - (b) If a tobacco product manufacturer is a participating manufacturer, such manufacturer shall include in its certification a list of its brand families. The participating manufacturer shall update such list thirty days prior to any addition to, or modification of, its brand families by executing and delivering a supplemental certification to the Attorney General and the commissioner.
 - (c) If the tobacco product manufacturer is a nonparticipating manufacturer, such manufacturer shall include in its certification: (1) A list of all of its brand families and the number of units of each brand family that were sold in the state during the preceding calendar year;

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(2) a list of all of its brand families that have been sold in the state at any time during the current calendar year; (3) an indication, by an asterisk, of any brand family sold in the state during the preceding calendar year that is no longer being sold in the state as of the date of such certification; and (4) the name and address of any other manufacturer of such brand families in the preceding or current calendar year. Each nonparticipating manufacturer shall update such list thirty days prior to any addition to, or modification of, its brand families by executing and delivering a supplemental certification to the Attorney General and the commissioner.

(d) If the tobacco product manufacturer is a nonparticipating manufacturer, such manufacturer shall further (1) certify that such nonparticipating manufacturer is registered to do business in this state pursuant to title 33 or 34 as a foreign corporation or business entity or has appointed an agent for service of process and provided notice thereof as required by section 4-28n, as amended by this act, (2) certify that such nonparticipating manufacturer has established and continues to maintain a qualified escrow fund and has executed a qualified escrow agreement that governs the qualified escrow fund, (3) certify that such nonparticipating manufacturer is in full compliance with the provisions of sections 4-28h to 4-28r, inclusive, as amended by this act, and any regulations adopted under sections 4-28h to 4-28r, inclusive, as amended by this act, [and] (4) provide (A) the name, address and telephone number of the financial institution where nonparticipating manufacturer has established such qualified escrow fund required pursuant to the provisions of sections 4-28h to 4-28j, inclusive, as amended by this act, and all regulations adopted under sections 4-28h to 4-28j, inclusive, as amended by this act; (B) the account number of such qualified escrow fund and subaccount number for the state of Connecticut; (C) the amount that such nonparticipating manufacturer placed in such fund for cigarettes sold in the state during the preceding calendar year, the date and amount of each such deposit, and such evidence or verification as may be deemed necessary by the commissioner or the Attorney General, to confirm the

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- foregoing; and (D) the amounts of and dates of any withdrawal or transfer of funds the nonparticipating manufacturer made at any time from such fund or from any other qualified escrow fund into which it ever made escrow payments pursuant to the provisions of sections 4-28h to 4-28j, inclusive, as amended by this act, and all regulations adopted under sections 4-28h to 4-28j, inclusive, as amended by this act, and (5) provide proof that such nonparticipating manufacturer has posted the bond required under subsection (e) of section 4-28n, as amended by this act.
 - (e) A tobacco product manufacturer may not include in its certification a brand family unless (1) in the case of a participating manufacturer, the participating manufacturer affirms that the brand family is to be deemed to be its cigarettes for purposes of calculating its payments under the Master Settlement Agreement for the relevant year, in the volume and shares determined pursuant to the Master Settlement Agreement; and (2) in the case of a nonparticipating manufacturer, such nonparticipating manufacturer affirms that the brand family is to be deemed to be its cigarettes for purposes of sections 4-28h to 4-28j, inclusive, as amended by this act. Nothing in this section shall be construed as limiting or otherwise affecting the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the Master Settlement Agreement or for purposes of sections 4-28h to 4-28j, inclusive, as amended by this act.
 - (f) A tobacco product manufacturer shall also (1) certify annually that such manufacturer or its importer holds a valid permit under 26 USC 5713, as from time to time amended, and provide a copy of such permit to the commissioner, and (2) certify that it is in compliance with all reporting and registration requirements of 15 USC 375 et seq., as from time to time amended.
 - (g) No tobacco product manufacturer shall submit a certification required by this section that contains any material representation that the manufacturer knows to be false or inaccurate.

- Sec. 6. Subdivision (3) of subsection (a) of section 4-28m of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2015*):
- 307 (3) The commissioner shall not include or retain in the directory any brand family of a nonparticipating manufacturer if the commissioner 308 309 concludes: (A) All escrow payments required pursuant to the 310 provisions of sections 4-28h to 4-28j, inclusive, as amended by this act, 311 for any period for any brand family, whether or not listed by such 312 nonparticipating manufacturer, have not been fully paid into a 313 qualified escrow fund governed by a qualified escrow agreement that 314 has been approved by the Attorney General; [, or] (B) any outstanding 315 final judgment, including interest thereon, for a violation of sections 4-316 28h to 4-28j, inclusive, as amended by this act, has not been fully 317 satisfied for such brand family and such manufacturer; or (C) a 318 nonparticipating manufacturer's total nation-wide reported sales of 319 cigarettes on which federal excise tax is paid exceeds the sum of (i) its 320 nation-wide reports under 15 USC 375 et seq., as from time to time 321 amended, or those made by its importer, and (ii) any intrastate sales 322 reports under 15 USC 375 et seg., as from time to time amended, by 323 more than five per cent of its total nation-wide sales or one million 324 cigarettes, whichever is less, during any calendar year, unless the 325 nonparticipating manufacturer cures or satisfactorily explains the 326 discrepancy not later than ten days after receiving notice of the 327 discrepancy.
- Sec. 7. Section 4-28n of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2015*):
 - (a) Any nonparticipating manufacturer that has not registered to do business in this state, pursuant to title 33 or 34, as a foreign corporation or business entity shall, as a condition precedent to having its brand families listed or retained in the directory maintained pursuant to section 4-28m, as amended by this act, appoint and continually engage without interruption the services of an agent in this state to act as agent for the service of process on whom all process and any action or

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- proceeding against it concerning or arising out of the enforcement of the provisions of sections 4-28h to 4-28r, inclusive, as amended by this act, may be served in any manner authorized by law. Such service shall constitute legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide the name, address, telephone number and proof of the appointment and availability of such agent to, and to the satisfaction of, the commissioner and the Attorney General.
 - (b) A nonparticipating manufacturer shall provide notice to the commissioner and the Attorney General at least thirty calendar days prior to termination of the authority of an agent and shall further provide proof, to the satisfaction of the commissioner and the Attorney General, of the appointment of a new agent no less than five calendar days prior to the termination of an existing agent appointment. In the event an agent terminates an agency, the nonparticipating manufacturer shall notify the commissioner and the Attorney General of such termination not later than five calendar days after such termination and shall include proof, to the satisfaction of the commissioner and the Attorney General, of the appointment of a new agent.
 - (c) Any nonparticipating manufacturer whose products are sold in this state without appointing or designating an agent as required in this section shall be deemed to have appointed the Secretary of the State as such agent and may be proceeded against in courts of this state by service of process upon the Secretary of the State, except that the appointment of the Secretary of the State as such agent shall not satisfy the condition precedent to having the brand families of the nonparticipating manufacturer listed or retained in the directory.
 - (d) A nonparticipating manufacturer located outside of the United States shall cause each of its importers into the United States of each of its brand families to be sold in the state to appoint and maintain the services of an agent in the state, and shall provide notification to the commissioner and the Attorney General regarding the agents of its

importers in the manner prescribed in subsections (a) and (b) of this section. Each importer of a nonparticipating manufacturer's cigarettes that are sold in the state who does not appoint or designate an agent as required in this section shall be deemed to have appointed the Secretary of the State as such agent and may be proceeded against in courts of this state by service of process upon the Secretary of the State, except that the appointment of the Secretary of the State as such agent shall not satisfy the condition precedent to having the brand families of the nonparticipating manufacturer listed or retained in the directory.

(e) (1) At least ten days prior to the first day of each calendar quarter, as a condition precedent to having its brand families listed or retained in the directory, each nonparticipating manufacturer shall file with the commissioner a surety bond, the form of which shall be approved by the Attorney General, that is issued by a bonding company or insurance company authorized to do business in this state. The bond shall be in favor of the commissioner and be in the principal sum of the greater of (A) twenty-five thousand dollars, or (B) the greatest amount of the total escrow payments owed in any of the five calendar years preceding the filing of such bond.

(2) If the nonparticipating manufacturer that posted a bond has failed to make, or have made on its behalf, escrow deposits equal to the full amount owed for a quarter not later than fifteen days following the due date for the quarter under section 4-28i, as amended by this act, the commissioner may execute on the bond, to (A) recover the delinquent escrow, which amount shall be deposited into a qualified escrow account as defined in section 4-28h, as amended by this act, or a reasonable alternative account as determined by the commissioner, and (B) recover civil penalties and costs authorized under section 4-28j, as amended by this act. Escrow amounts above the amount collected on the bond shall remain due from the nonparticipating manufacturer and, as provided in subsection (d) of section 4-28j, as amended by this act, from the importers that sold such nonparticipating manufacturer's cigarettes in this state during such calendar quarter.

- Sec. 8. Section 4-280 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2015*):
- (a) Not later than twenty-five days after the end of each month, and more frequently if so directed by the commissioner, each stamper shall submit such information as the commissioner requires to facilitate compliance with sections 4-28k to 4-28r, inclusive, as amended by this act, including, but not limited to, a list by brand family of the total number of cigarettes, or in the case of roll-your-own tobacco, the equivalent stick count, for which the stamper affixed stamps during the previous month. The stamper shall maintain, and make available to the commissioner for a period of five years, all invoices and documentation of purchases and sales of all nonparticipating manufacturer cigarettes and any other information relied upon in reporting to the commissioner. Each stamper shall provide and update as necessary an electronic mail address to the commissioner.
 - (b) (1) The commissioner may disclose to the Attorney General any information received under sections 4-28k to 4-28r, inclusive, <u>as amended by this act</u>, and requested by the Attorney General for purposes of determining compliance with and enforcing the provisions of sections 4-28k to 4-28r, inclusive, <u>as amended by this act</u>. The commissioner and the Attorney General shall share with each other the information received under sections 4-28k to 4-28r, inclusive, <u>as amended by this act</u>, and may share such information with other federal, state or local agencies [only] for purposes of <u>law</u> enforcement. [of the provisions of sections 4-28h to 4-28r, inclusive, or corresponding laws of other states.]
 - (2) Notwithstanding the provisions of section 12-15, the commissioner may disclose to the Attorney General any returns or return information, as defined in section 12-15, received pursuant to this chapter or chapter 214 or 214a, when such returns or return information is relevant to any arbitration or other dispute resolution proceeding to which the state is a party, created or authorized under the terms of the Master Settlement Agreement, as defined in section 4-

- 436 28h, <u>as amended by this act</u>, or any amendments to said agreement.
- 437 The Attorney General may further disclose such returns or return
- information in such arbitration or other dispute resolution proceeding.
- 439 (3) Notwithstanding the provisions of section 12-15, the
- 440 commissioner may disclose to the Attorney General any returns or
- return information, as defined in section 12-15, received pursuant to
- 442 this chapter or chapter 214 or 214a, when such returns or return
- information is directly related to the state's implementation of the
- 444 Master Settlement Agreement or the Nonparticipating Manufacturer
- 445 Adjustment Settlement Agreement. The Attorney General may further
- 446 disclose (A) such returns or return information pursuant to an
- agreement with an entity designated to serve as a data clearinghouse
- 448 in accordance with the terms of the Nonparticipating Manufacturer
- 449 Adjustment Settlement Agreement, or (B) returns or return
- 450 information of a distributor licensed under the provisions of chapter
- 451 <u>214 or chapter 214a, to a nonparticipating manufacturer subject to the</u>
- 452 provisions of subsection (a) of section 4-28i, as amended by this act,
- 453 provided the information disclosed is limited to information relating to
- 454 such manufacturer's sales to consumers within this state, whether
- 455 directly or through a distributor, dealer or similar intermediary or
- intermediaries, of cigarettes, as defined in section 4-28h, as amended
- 457 by this act.
- 458 (c) The Attorney General may require at any time from a
- 459 nonparticipating manufacturer proof of the amount of money in the
- 460 qualified escrow fund maintained by such manufacturer for the
- 461 purpose of compliance with provisions of sections 4-28h to 4-28j,
- inclusive, as amended by this act. Such proof shall be provided to such
- 463 manufacturer by the financial institution in which such manufacturer
- has established such fund. Such proof shall include the amount of
- money in such fund, exclusive of interest, the amount and date of each
- deposit to such fund and the amount and date of each withdrawal
- 467 from such fund.
- (d) In addition to the information requested to be submitted

- pursuant to subsection (a) of this section and section 4-28*l*, <u>as amended</u>
 by this act, the commissioner may require a stamper or tobacco
 product manufacturer to submit any additional information including,
 but not limited to, samples of the packaging or labeling of each brand
 family, as is necessary to enable the Attorney General to determine
 whether a tobacco product manufacturer is in compliance with the
 provisions of sections 4-28k to 4-28r, inclusive, as amended by this act.
 - (e) [To promote compliance with the provisions of sections 4-28k to 4-28r, inclusive, the commissioner may adopt regulations, in accordance with the provisions of chapter 54, requiring a tobacco product manufacturer subject to the requirements of subsection (c) of section 4-28l to make the escrow deposits required in quarterly installments during the year in which the sales covered by such deposits are made.] The commissioner may require production of information from a nonparticipating manufacturer, importer or stamper sufficient to enable the [commissioner] Attorney General to determine the adequacy of the amount of [the installment deposit] a quarterly escrow deposit under subsection (a) of section 4-28i, as amended by this act.
 - (f) (1) Each tobacco product manufacturer and importer that sells cigarettes in or into the state shall, not later than fifteen days after the end of the month, file a report on a form and in the manner prescribed by the commissioner and certify that the report is complete and accurate.
 - (2) The report shall contain the following information: The total number of cigarettes sold by such manufacturer or importer in or into the state during that month and identifying by name and number of cigarettes, (A) the manufacturers of such cigarettes, (B) the brand families of such cigarettes, and (C) the purchasers of such cigarettes. A manufacturer's or importer's report shall include cigarettes sold in or into the state through an affiliate.
- 500 (3) The requirements of subdivisions (1) and (2) of this subsection

shall be satisfied and no further report shall be required under subdivisions (1) and (2) of this subsection with respect to cigarettes if the manufacturer or importer timely submits to the commissioner the report or reports required to be submitted by it with respect to cigarettes under 15 USC 375 et seq., as from time to time amended, and certifies that the reports are complete and accurate.

- (4) Upon request by the commissioner or Attorney General, a manufacturer or importer shall provide copies of all sales reports required to be submitted under 15 USC 375 et seq., as from time to time amended, that such manufacturer or importer filed in other states.
- (5) Each manufacturer or importer that sells cigarettes in or into the state shall either (A) submit its federal excise tax returns and all monthly operational reports on Alcohol and Tobacco Tax and Trade Bureau Form 5210.5 or any subsequent corresponding form, and all adjustments, changes and amendments to such reports to the commissioner not later than thirty days after the returns are filed, or (B) submit to the United States Treasury a valid request or consent under Section 6103(c) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, authorizing the federal Alcohol and Tobacco Tax and Trade Bureau and, in the case of a foreign manufacturer or importer, the United States Customs and Border Protection, to disclose the manufacturer's or importer's federal excise tax returns to the commissioner.

This act shall take effect as follows and shall amend the following sections:			
Section 1	January 1, 2015	4-28h	
Sec. 2	January 1, 2015	4-28i(a)	
Sec. 3	January 1, 2015	4-28j	
Sec. 4	January 1, 2015	4-28k	
Sec. 5	January 1, 2015	4-281	
Sec. 6	January 1, 2015	4-28m(a)(3)	
Sec. 7	January 1, 2015	4-28n	

Sec. 8	Ianuary 1, 2015	4-280
<i>5</i> ec. 0	Junuary 1, 2010	4-200

Statement of Legislative Commissioners:

In Sec. 3(d), "nonparticipating manufacturer" was changed to "manufacturer that elects to place funds into escrow" for conformity with Subsec. (a) of the section; in Sec. 7(d), the reference to Subsecs. "(a) to (c)" was changed to "(a) and (b)" for accuracy; in Sec. 8(f)(1), "tobacco product" was added in front of "manufacturer" for accuracy, and "fifteen days following" was changed to "fifteen days after" for clarity; and in Sec. 8(f)(5), "United States Customs Service" was changed to "United States Customs and Border Protection" for accuracy.

FIN Joint Favorable Subst.